1397

SUPREME COURT OF THE UNITED STATES.

No. 224.

THE UNITED STATES, APPELLANTS,

vs.

THE HEIRS OF SAMUEL ELKINS ET AL.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF LOUISIANA.

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UNITED STATES OF AMERICA,
Eastern District of Louisiana:

HEIRS OF SAML. ELKINS ET AL.
vs.
THE UNITED STATES. } No. 143. Land Cause.

Be it known and remembered, that heretofore, at the December Term, A. D. 1848, of the said court, to wit: on the twenty second day of January, one thousand eight hundred and forty nine, came the heirs of Samuel Elkins, plaintiffs in the above cause by Isaac T. Preston Esq., their solicitor, into the office of the clerk of said court, and there filed their

Petition

Which is in the words and figures following, viz:

To the Honorable District Court of the United States, for the District of Louisiana the petition of Thomas Elkins, Mark L. Elkins, David Elkins, and Hannah Elkins wife of Jessee Courser, of Judith Elkins, the wife of Ferrand Livingston, by their husbands duly authorised and of Tree only heir of Sabrah Elkins deceased wife of Stephen Tree and of Matthew Wallace and Margaret McLean the only children of Catherine Elkins widow Wallace deceased, respectfully shew.

That your petitioners are the only heirs of Samuel Elkins who departed this life in the State of Louisiana in the month of February 1835, and are entitled by law and inheritance to all the lands and other rights in Louisiana belonging to his succession.

Your petitioners allege that the late George W. Morgan, then a subject of the King of Spain made application in the early part of the year 1803 to Juan Ventura Morales, Intendant of the province of West Florida, to purchase from the Spanish Government, thirty thousand arpents of land situated in the district formerly of Galvestown fronting on the eastern bank of the Amite River, about eight miles from the junction of said river with the Iberville and San Bernard rivers.

On the 22nd July 1803 his application was submitted by the Intendant Morales to the Commissioners of the King of Spain for the surrender of the territory of Louisiana, also to the King's Attorney General for the province and to the Auditor of war, all of whom approved of the application of said George W. Morgan.

Thereupon on the 19th October 1803 the said intendant, by his decree ordered Charles Leveau Trudeau, the surveyor general of the province to survey, measure and mark, the boundaries and limits of the said tract of thirty thousand arpents of land and to have it ap-

praised by appraisers duly appointed by the Royal Treasury and by the purchaser which was done and the land appraised at five cents per arpent amounting to fifteen hundred dollars, which the said George W. Morgan, with the approbation of intendant and the attorney general and auditor of war aforesaid paid into the Royal Treasury.

Your petitioners shew that thereupon the said intendant General Juan Ventura Morales on the 23d day of April 1804 made a formal concession of the said tract of thirty thousand arpents of land, to the said George W. Morgan all of which appears by the original of the said grant and translation of the same hereunto annexed to this petition as exhibits A. & B. with the plat of the said land made by the surveyor general Trudeau in which the land is fully described and which plat is annexed as exhibit C.

Your petitioners shew that the order of survey of said lands and all the preliminary proceedings to perfect the title took place before the 10th day of March 1804 and were made by the proper authorities in favor of George W. Morgan who was then a person resident in the Province of Louisiana and that the concession to him was protected by the treaty between the United States of America and the French Republic of the 30th day of April 1803 and which concession might have been and indeed was perfected into a complete title in conformity to the laws, usages and customs of the government under which the same originated.

Your petitioners further allege that the said George W. Morgan applied to the Register and Receiver of the Land Office at St. Helena to enregister and confirm his title, to said tract of land.

Your petitioners further shew that the late Stephen Henderson and William Kenner were equally interested with George W. Morgan in said grant of land and that they caused it to be divided into three equal parts by a survey made by B. Lafon, late a Surveyer for the United States and a plat thereof, to be made by him dated the 14th day of June 1814 a copy of which your petitioners are ready to produce if necessary and that by acts passed before Jhon Lind Notary Public of New Orleans dated the 15th day of June 1814 George W. Morgan conveyed the upper third of said land to William Kenner, and the middle third to Stephen Henderson retaining the lower third for himself.

Your petitioners further shew that on the same day Stephen Henderson conveyed five thousand arpents of his third to Samuel Elkins from whom your petitioners inherited the same as heretofore stated, copies of said acts and of the judicial recognition of your petitioners as heirs of Samuel Elkins are annexed as exhibits.

Your petitioners allege that the coproprietors of said grant for many years possessed and paid taxes upon said land to the State of Louisiana until exonerated by the General Assembly of said State in the year.

Your petitioners allege that the land is almost intirely covered by titles emanating from the Government of the United States and

that they have no relief at law and only that equitable relief, accorded by the act of Congress passed on the 17th day of June 1844 authorizing suits to be instituted against the United States for the purpose of trying tittles to land in the State of Louisiana and for other purposes.

Wherefore your petitioners respectfully pray the premises and annexed exhibits being considered, that a copy of their petition be served upon the District Attorney of the United States for this District of Louisiana, that he be cited to answer their petition and, after all proper proceedings had that it be decreed by this honorable court that the title of your petitioners to the above tract of land is valid and good against the United States, and that so far as said lands are covered by titles under the authority of the United States your honor would decree that your petitioners should be allowed to locate according to law an equal quantity of land to that covered by claims held under the authority of the United States.

And your petitioners pray this honorable court to afford all other and further relief which belongs to equity and the nature of the case.

As in duty bound &c.

(Signed) ISAAC T. PRESTON,
Solicitor for Petitioners.

January 22d 1849.

Nota.—For exhibits A. B. & C. & others, said to be "annexed" to the foregoing petition, see pages 25 to 38 et seqs. of this transcript.

And further at the same term and on the same day, also appeared the heirs of Stephen Henderson, intervening for their interest in the said cause, by Isaac T. Preston, Esq. their solicitor, and filed, annexed to the foregoing petition, the following

Intervention.

To the Honorable District Court of the United States for the District of Louisiana the petition of Jhon Henderson and Ann Henderson widow Davis residing in Scotland but represented in New Orleans by William C. Mylne and Murray W. Thompson the irrecognized attorneys in fact, recognized Heirs each for one fourth of the estate of the late Stephen Henderson and transferrees of one other fourth of his estate from Stephen Henderson another Heir also of George Henderson and of Caroline E. Wilcox, Heirs of the remaining fourth of said estate respectfully shews.

That they are the only heirs and representatives of the estate of Stephen Henderson. They allege that the statements in the foregoing petition are true and that they as heirs and representatives of the late Stephen Henderson own five thousand acres of the grant of

land described in the foregoing petition and are entitled to the same relief as to their five thousand acres of the grant which is claimed by the Heirs of Samuel Elkins.

Wherefore they pray that the District Attorney of the United States may be cited to answer their petition and claim and that the like relief may be granted to them which is claimed for the Heirs of Samuel Elkins.

As in duty bound &c.

(Signed) ISAAC T. PRESTON,
Solicitor for Petnrs.

January 22d 1849.

And further, at the same Term, to wit: on the 8th day of February 1849, also appeared the Heirs of Wm. Kenner, intervening by I. T. Preston Esq. their solicitor, for their interest in the said cause, and filed the following

Intervention.

To the Honorable District Court of the United States for the District of Louisiana the petition of Duncan F. Kenner, Minor Kenner, Butler Kenner, and George Kenner and of Martha Oxley wife of Oxley and of Frances Ann Duncan wife of George Currie Duncan and by their husbands duly authorized respectfully shews.

That your petitioners are the only heirs and representatives of William Kenner deceased. They allege that the statements in the foregoing petition are true and that they as heirs and representatives of William Kenner are entitled to ten thousand acres of the grant of land described in the within petition by virtue of a bill of sale made to him of that quantity by George W. Morgan on the 15th day of June 1814 before Jhon Lind Esq. Notary Public an authentic copy of which is annexed.

Wherefore they pray that the District Attorney of the United States may be cited to answer their petition and claim and that the like relief may be granted to them which is claimed for the heirs of Samuel Elkins.

As in duty bound &c.

(Signed) ISAAC T. PRESTON,
Solicitor for Petitioners.

February 8, 1849.

Nota.—For bill of sale said to be annexed, see page 45 of this transcript.

Nota.—For exhibits A. B. & C. & others said to be annexed to the foregoing petition, see pages 25–38 of this transcript, et sequentes as on page 4 already stated.

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And thereupon, to wit: on the said eighth day of February, A. D. 1849 was issued from the Clerk's Office with copies of the foregoing petition and interventions annexed, the following

Citation.

UNITED STATES OF AMERICA.

[SEAL.]

The President of the United States to the Marshal for the District of Louisiana or to any of his lawful deputies greeting:

You are hereby commanded to summon Thomas J. Durant, Esq., U. S. Dist. Attorney for the said district, to appear on the first Monday of March A. D. 1849, before the Honorable the Judge of the District Court of the United States for Louisiana at a District Court to be holden by him at the city of New Orleans, then and there to answer a Petition in Chancery filed by the heirs of Saml. Elkins an intervening petition by the heirs of Stephen Henderson and another by the heirs of Wm. Kenner, against the United States under and by virtue of the acts of May 26, 1824, and June 17, 1844, giving notice to the said attorney for the defendants that a failure on his part to enter his appearance on the said cause on or before the Monday aforesaid may cause the said petition and intervention to be taken for confessed.

Herein fail not, but have you then and there this writ: with your endorsement therein as to what you shall have done in the premises.

Witness the Hon. Theo. H. McCaleb, Judge of the Dist. Court of the United States for the District of Louisiana, this 8th February in the year 1849.

(Signed) ROBR. M. LUSHER,
Dy. Clk.

On which was duly registered in the Clerk's Office the following

Marshal's Return.

Recd. February 8th 1849 and on the same day served petition and copy of citation on the United States District Atty. Thomas J. Durant Esq. by handing the same to him at his office in person at New Orleans.

(Signed) N. W. BUTLER,
Dy. U. S. Marshal.

& Returd.

And afterwards, at the February Term, A. D. 1849 of the said court, to wit: on the fifth day of March of said year, appeared the defendants by their attorney, Thomas J. Durant Esq. and filed their demurrers to said petition and interventions, in the words following, to wit:

1°.—*Demurrer.*

THE HEIRS OF SAMUEL ELKINS
vs.
THE UNITED STATES.

In the District Court of the United States for the District of Louisiana before the Honorable Theodore H. McCaleb Judge.

The demurrer of the United States defendants to the petition and bill of complaint of the Heirs of Samuel H. Elkins.

And now comes Thomas J. Durant Attorney of the United States for the District of Louisiana and not confessing or acknowledging any of the facts and allegations in the petitioner's bill of complaint and petition contained, he demurs in law to said bill and petition, and says that he is not bound to answer to the same.

And for cause of demurrer the attorney aforesaid shows that the said petitioners and complainants have not by their bill and petition made such a case as entitles them to relief under the Act of the Congress of the United States approved on the seventeenth day of June in the year one thousand eight hundred and forty-four entitled an act to provide for the adjustment of land claims within the States of Missouri, Arkansaw, and Louisiana, and in those parts of the States of Louisiana, and Alabama south of the thirty-first degree of north latitude and between the Mississippi and Perdido rivers for the benefits of suing conferred by said act were extended only to two years after the date of the approval of the same, and no bill of complaint or petition could or can be brought against the United States after the lapse of two years after said act, and that no bill of complaint or petition could be filed under said act after the seventeenth day of June one thousand eight hundred and forty-six.

Wherefore and for divers other good causes of demurrer appearing in the said bill of complaint and petition the attorney aforesaid doth demur thereunto, and to all the matters and things therein contained; and prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said petition and he prays to be hence dismissed.

(Signed) THOMAS J. DURANT
Atty. U. S. for La.

2°.—*Demurrer to intervention of Henderson's Heirs.*

THE HEIRS OF SAMUEL ELKINS
vs.
THE UNITED STATES.

In the District Court of the United States for the District of Louisiana before the Honorable Theodore H. McCaleb, Judge.

The demurrer of the Attorney of the United States for the District of Louisiana to the petition of intervention of the Heirs of Ste-

phen Henderson in the matter of the Heirs of Samuel Elkins *vs.* The United States.

And now comes Thomas J. Durant attorney of the United States for the District of Louisiana: and not confessing or acknowledging any of the facts and allegations in the intervenors bill of complaint and petition contained, he demurs in law to said bill and petition and says that he is not bound to answer to the same.

And for cause of demurrer the attorney aforesaid shows that the said intervenors and claimants have not by their petition of intervention made such a case as entitles them to relief under the act of the Congress of the United States approved on the seventeenth day of June in the year one thousand eight hundred and forty-four entitled "An act to provide for the adjustment of land claims within the States of Missouri, Arkansaw and Louisiana, and in those parts of the States of Louisiana and Alabama south of the thirty-first degree of north latitude and between the Mississippi and Perdido Rivers;" for the benefits of suing conferred by said act were extended only to two years after the date of the approval of the same, and no petition of intervention could or can be brought against the United States after the lapse of two years after said act, and that no petition of intervention could be filed under said act after the seventeenth day of June one thousand eight hundred and forty-six.

Wherefore and for divers other good causes of demurrer appearing in the said petition of intervention, the attorney aforesaid doth demur thereunto, and to all the matters and things therein contained, and prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said petition of intervention, and he prays to be hence dismissed.

(Signed) THOMAS J. DURANT,
Atty. U. S. for La.

8°. *Demurrer to Intervention of Kenner's Heirs.*

Before the Honorable Theodore H. McCaleb Judge of the District Courts of the United States for the District of Louisiana.

The demurrer of the United States to the petition of intervention of the Heirs of William Kenner in the matter of the *Heirs of Samuel Elkins* vs. *The United States.*

And now comes Thomas J. Durant attorney of the United States for the Districts of Louisiana, and not confessing or acknowledging any of the facts and allegations in petition intervening petition and bill of complaint contained, he demurs in law to the said petition and says that he is not bound to answer the same.

And for cause of demurrer the attorney aforesaid shows that the said intervenor have not by their petition of intervention made out such a case as entitles them to relief under the act of Congress ap-

proved on the seventeenth day of June one thousand eight hundred and forty-four, entitled "An act to provided for the adjustment of land claims within the States of Missouri, Arkansas and Louisiana, and in those parts of the States of Mississippi and Alabama south of the thirty-first degree of north latitude and between the Mississippi and Perdido Rivers" for the said petitions in intervention are attempting to carry on their proceedings made the provision of said act while the privileges and benefits of suing the United States conferred by it were limited to the space of two years after the approval of the same, and, no suit could or can be brought under it after the seventeenth day of June, one thousand eight hundred and forty-six.

Wherefore and for divers other good causes of demurrer appearing in the aforesaid petition of intervention, the attorney aforesaid doth demur to said petition of intervention, and to all the matters and things therein contained, and prays the judgment of this honorable court whether he shall be compelled to make any further or other answer to the said petition of intervention, and he prays to be hence dismissed with costs.

(Signed) THOMAS J. DURANT,
Atty. U. S. for La.

And further at the same Term to wit: on the 20th day of March A. D. 1849, was entered of record on the minutes of the court the following

Judgment on Demurrers, viz.

HEIRS OF SAML. ELKINS AND OF STEPH. HENDERSON & WM. KENNER, INTERVENORS, vs. THE UNITED STATES. } 143

Tuesday, March 20, 1849.

Before Hon. Theo. H. McCaleb.

This cause came on to be heard this day on the demurrers filed by the defendants to plaintiffs' petition and respective interventions, I. T. Preston, Esq. appearing for plaintiffs and intervenors and the United States District Attorney for the defendants.

When it was ordered and decreed that the said demurrers be overruled, and that defendants answer to the petition and interventions.

Wherefore at the same Term to wit: on the 21st day of April, A. D. 1849, appeared the defendants by their attorney and filed their answers in the words following, viz:

Answer.

HEIRS OF SAMUEL ELKINS,
vs.
THE UNITED STATES.

To the Honorable T. H. McCaleb, Judge of the District Court of the United States, for the Eastern District of Louisiana.

The answer of Thomas J. Durant, Attorney of the United States for the Eastern District of Louisiana and of the Defendants to the bill of complaint and petition of the Heirs of Samuel Elkins and others complainants and petitioners.

The Attorney of the United States aforesaid, now and at all times hereafter reserving to himself and to the said defendants, all and all manner of benefit or advantage of exception, which can or may be had or taken to the many errors, uncertainties and other imperfections in the said complainants bill of complaint and petition contained, for answer thereto or unto so much and such parts thereof as the Attorney aforesaid and these Defendants are advised, is or are material for them or necessary for them to make any answer unto, this Defendant, the Attorney of the United States aforesaid saith that the present action is brought too late, because more than two years had elapsed before the filing of the petition since the seventeenth day of June 1844 and by law that the suit could only be brought within two years from that date.

And further answering he saith that he is a stranger to the several matters and things in the said complainants said bill of complaint and petition set forth, and of all of them he demands full and complete proof.

And this defendant further saith that he claims such rights and interests under the treaties, statutes, and laws of the United States pertinent to this matter for and on behalf of the United States as this Honorable Court shall be of opinion that the United States are justly entitled to.

All of which matters and things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most unlawfully sustained.

(Signed) THOMAS J. DURANT,
Atty. U. S. for E. D. La.

Answer to Intervention of Henderson's heirs.

HEIRS OF SAMUEL ELKINS,
vs.
THE UNITED STATES.

To the Honorable T. H. McCaleb, Judge of the District Court of the United States for the Eastern District of Louisiana.

The answer of Thomas J. Durant Attorney of the United States

for tho Eastern District of Louisiana, and of the defendants to the petition of Intervention of Henderson's Heirs in the bill of complaint and petition of the heirs of Samuel Elkins and others, complainants and petitioners.

The attorney of the United States aforesaid, now and at all times hereafter reserving to himself and to the said defendants all and all manner of benefit or advantage of exception, which can or may be had or taken to the many errors uncertainties and other imperfections in the said petition of Intervention contained, for answer thereto or unto so much and such parts thereof as the attorney aforesaid and these defendants are advised is or are material for them or necessary for them to make any answer unto, this defendant the attorney of the United States aforesaid saith that the present petition of Intervention is brought too late, because more than two years had elapsed before the filing of the petition since the seventeenth day of June 1844 and by law that the said suit could only be brought within two years from that date.

And the attorney aforesaid further saith that the said petition of Intervention has been unlawfully filed in this case and cannot now or hereafter be acted upon by this Honorable Court because such proceeding is not warranted by law and is not conformable to the usages or practice of this court in similar cases.

And further answering he saith that he is a stranger to the several matters and things in the said petition of Intervention set forth, and of all of them he demands full and complete proof.

And this defendant further saith that he claims such rights and interests under the treaties statutes and law of the United States pertinent to this matter for and on behalf of the United States as this Honorable Court shall be of opinion that the United States are justly entitled to.

All of which matters and things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most unlawfully sustained.

THOMAS J. DURANT,
Atty. U. S. for E. D. La.

Answer to Intervention of Kenner's Heirs.

HEIRS OF SAMUEL ELKINS
vs.
THE UNITED STATES.

To the Honorable T. H. McCaleb, Judge of the District Court of the United States for the Eastern District of Louisiana.

The answer of Thomas J. Durant Attorney of the United States for the Eastern District of Louisiana and of the defendants to the intervention of Kenner's Heirs in the bill of complaint and petition

of the Heirs of Samuel Elkins and others complainants and petitioners.

The attorney of the United States aforesaid, now and at all times hereafter reserving to himself and to the said defendants, all and all manners of benefit or advantage of exception, which can or may be had or taken to the many errors, uncertainties and other imperfections in the said Petition of Intervention contained, for answer thereto or unto so much and such parts thereof as the attorney aforesaid and these defendants are advised is or are material for them or necessary for them to make any answer unto, this defendant the attorney of the United States aforesaid saith that the present Petition of Intervention is brought too late, because more than two years had elapsed before the filing of the petition since the seventeenth day of June 1844 and by law that the suit could only be brought within two years from that date.

And the attorney aforesaid further saith that the said petition of intervention has been unlawfully filed in this case and cannot now or hereafter be acted upon by this Honorable Court because such proceeding is not warranted by law and is not conformable to the usages or practices of this Court in similar cases.

Aud further answering he saith that he is a stranger to the several matters and things in the said petition of intervention set forth and of all of them he demands full and complete proof.

And this defendant further saith that he claims such rights and interests under the treaties, statutes and laws of the United States pertinent to this matter for and on behalf of the United States as this Honorable Court shall be of opinion that the United States are justly entitled to.

All of which matters and things this defendant is ready and willing to aver, maintain and prove as this Honorable Court shall direct, and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most unlawfully sustained.

THOMAS J. DURANT,
Atty U. S. E. D. La.

And further at the same term and on the same day appeared Loyal Case, curator of the estate of Jhon Satterlee, deceased, intervening by his solicitor I. T. Preston esq: for his interest in said cause, and filed the following

Intervention.

To the Honorable District Court of the United States in and for the Eastern District of the State of Louisiana the petition of Loyal Case residing in the city of New Orleans respectfully shews.

That your petitioner has been duly appointed curator of the estate of Jhon Satterlee deceased. Your petitioner shews that said Satterlee by act before Carlisle Pollock Esqr. late Notary Public of New

Orleans in the year 1841 purchased from George W. Morgan as syndic of his own creditors ten thousand acres of the land sold to him by the Spanish Government by the grant which has been filed in this Honorable Court in the case of the Heirs of Samuel Elkins against the United States and his estate is the sole owner of said land.

He alledges that all the statements in the petition of the Heirs of Samuel Elkins against the United States are true and that he is entitled to the relief as to the ten thousand acres of said grant purchased by Satterlee from Morgan which is prayed for by the Heirs of Elkins and accorded by the acts of Congress of the 17th of June 1844 and the 26th of May 1824.

Wherefore your petitioner prays leave to intervene in said suit; that the District Attorney of the United States for this district may be cited to answer his intervention and claim and that ten thousand acres of said grant may be decreed to belong to him as curator of the estate of Jhon W. Satterlee and in case the same should be held by any other claim under the United States that he may be authorized to enter the same quantity at any land office of the United States in the State of Louisiana upon any land which has been exposed to public sale without being sold.

And that your honor would decree to him all other and further relief the nature of his case may require. As in duty bound &c.

(Signed) ISAAC T. PRESTON,
Solicitor for Petners.

On which was endorsed the following

Order of the Judge.

Let the within intervention be filed and citation issue as prayed for.

(Signed) T. H. McCALEB,
U. S. Judge.

New Orleans, April 21st 1849.

Whereupon, with a copy of the foregoing intervention of Loyal Case annexed, was issued from the clerk's office the following

Citation.

UNITED STATES OF AMERICA,
The President of the United States,

To the Marshal for the Eastern District of Louisiana, greeting:

You are hereby commanded to summon Thomas J. Durant, Esq. U. S. Attorney for said District to appear in the case of the Heirs of Elkins *vs.* the U. States, before the Honorable the Judge of the Eastern District of Louisiana, at a Dist. Court to be holden on the first Monday of June (4) 1849 then and there to answer an Inter-

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vention in Chancery filed against the U. S. wherein Loyal Case, as Curator of Jn. W. Satterlée is intervenor in the above cause and the U. States are defendants; answer to said intervention to be filed on or before said Monday; else the same may be taken *pro confesso.*

Herein fail not, and have you then and there this writ, with your endorsement thereon, how you have executed the same.

Witness the Honorable Theo. H. McCaleb Judge of the Dist. Court of the United States, at New Orleans, this the 21st day of April in the year of our Lord one thousand eight hundred and forty-nine, and the 73d year of American Independence.

SEAL.] (Signed) ROBT. M. LUSHER,
Dy. Clerk.

On which was duly registered, in the clerk's office the following:

MARSHAL'S RETURN.

Recd. 21st April 1849 and on the same day, served copy of citation and petition of intervention on Thomas J. Durant Esq. U. S. Dist. Attorney by handing the same to him in person at New Orleans and returned same day.

(Signed) N. W. BUTLER,
Dy. U. S. Marshal.

And thereafter at the same Term, to wit: on the 7th day of May A. D. 1849, the plaintiffs and intervenors appeared, jointly, by their solicitor and filed the following:

Replication.

To the Honorable District Court of the United States for the Eastern District of Louisiana the replication of the heirs of Samuel Elkins, also of the Heirs and Representatives of Stephen Henderson and also of the Heirs and Representatives of William Kenner, to the answer of the United States to their bill of complaint respectfully shew.

That all their allegations in their petitions and interventions are true and that they are entitled to the relief prayed for by them notwithstanding the answer of the attorney of the United States to their petitions and claims.

Wherefore they pray for said relief. As in duty bound, &c.

(Signed) ISAAC T. PRESTON,
Solicitor for Petitioners.

And further at the same Term to wit: on the 19th day of May, A. D. 1849, appeared the defendants by their attorney, and filed the following

Demurrer to Petition of Intervention of Case, Curator.

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

February Term, 1849.

To the Honorable Theodore H. McCaleb, Judge of the District Court of the United States for the Eastern District of Louisiana.

The demurrer of Thomas J. Durant Attorney of the United States for the Eastern District of Louisiana, on behalf of the United States to the bill of complaint and petition of Loyal Case, curator of Jhon W. Satterlee, intervening in the matter of the Heirs of Elkins *vs.* the United States.

And now comes Thomas J. Durant Attorney of the United States for the Eastern District of Louisiana, and not confessing or acknowledging any of the facts and allegations in petitioners bill of complaint and petition contained, he demurs in law to said petition and says that he is not bound to answer the same.

And for cause of demurrer he shows that the said Loyal Case has not by his petition made out such a case as entitles him to relief under the Act of Congress approved 17 June 1844, because the provisions of said act are only extended to petitioners who file their claim to land within two years after its passage, and it appears from the fact of the said Loyal Case's bill of complaint and petition that he did not commence his proceedings until for more than two years from the date of said act had expired.

Wherefore and for divers other good causes of demurrer in the aforesaid petition, the Attorney of the United States aforesaid doth demur to the said petition, and to all the matters and things therein contained, and prays the judgment of this Honorable Court whether he shall be compelled to make any further answer to the said petition and he prays to be hence dismissed with costs.

THOMAS J. DURANT,
Atty. U. S. E. D. La.

And afterwards at the May Term, to wit: on the 29th day of May, 1849, were had and recorded the following proceedings, viz:

Before Hon. Theo. H. McCaleb.

HEIRS OF SAMUEL ELKINS
vs.
THE UNITED STATES. } 143

Tuesday, May 29th, 1849.

This cause came regularly up for hearing to day, on plaintiffs' petition, the interventions of the heirs of ——— Henderson and of

Kenner, defendants' answers thereto, and a general replication; Isaac T. Preston, Esq. appearing for the plaintiffs and intervenors, and Thos. J. Durant, Esq. for the defendants. Evidence was adduced and argument heard; when the court took the matter under advisement.

And on motion of Isaac T. Preston, Esq. solicitor for the intervenor, loyal case, it is ordered that defendants' demurrer to his intervention be overruled and that they file their answer to the merits of his petition in intervention.

Wherefore, at the same term, to wit: on the 6th day of June, A.D. 1849 the defendants appeared and filed the following

Answer:

HEIRS OF SAMUEL ELKINS
vs.
THE UNITED STATES.

To the Honorable Theodore H. McCaleb Judge of the District Court of the United States for the Eastern District of Louisiana.

The answer of Logan Hunton Attorney of the United States for the Eastern District of Louisiana and of the defendants to the intervention of Loyal Case, Curator of Jhon W. Satterlee in the Bill of Complaint and Petition of the Heirs of Samuel Elkins and others Petitioners.

The Attorney of the United States aforesaid now and at all times hereafter reserving to himself and to the said defendants, all and all manner of benefit or advantage of exception which can or may be had or taken to the many errors uncertainties and other imperfections in the said petition of intervention contained, for answer thereto or unto so much and such parts thereof as the attorney aforesaid and these defendants are advised is or are material or necessary for them to make any answer unto; the Attorney of the United States aforesaid saith that the present petition of intervention is brought too late, because more than two years had elapsed before the filing of the petition since the seventeenth day of June 1844 and by law that the suit could only be brought within two years from that date.

And the attorney aforesaid further saith that the said petitions of intervention has been unlawfully filed in this case and cannot now or hereafter be acted upon by this Honorable Court because such proceeding is not warranted by law and is not conformable to the usages or practices of this court in similar cases.

And further answering the attorney aforesaid saith that he is a stranger to the several matters and thing in the said petition of intervention contained and of all of them he demands full and complete proof, and he claims on behalf of the United States all such

rights and interests under the treaties laws and statutes pertinent to this matter as this Honorable Court shall be of opinion the said United States are justly entitled to: all of which matters and things he is ready and willing to maintain, over and prove as this Honorable Court shall direct, and prays to be hence dismissed with costs.

(Signed) LOGAN HUNTON,
Atty. U. S. E. D. La.

Whereupon was forthwith entered the following

Order of Submission.

Wednesday, June 6, 1849.

Before Hon. Theo. H. McCaleb.

HEIRS OF SAM'L ELKINS vs. THE UNITED STATES. } 143. May Term, 1849.

The intervention filed herein by Loyal Case, Curator of John W. Satterlee, deceased having this day been put at issue by the filing of an answer by the defendant. It is now, on motion of Thos. J. Durant, Esq. of counsel for said defendants, ordered that the said intervention be, and it is hereby submitted to the court for its judgment thereon.

And be it remembered that the documents offered in evidence by the plaintiffs and intervenors on the submission of their cause as recorded under date of May 29th 1849, are the following, to wit:

1°. A certain original document in the Spanish language described in plaintiffs' petition as Exhibits A & C. and annexed thereto; Exhibit A. being the original grant of 30.000 arpents of land, by Juan Ventura Morales to Geo. W. Morgan, of date April 23d 1804; and Exhibit C. accompanying the same, being the original plan and Procès-verbal of Carlos Trudeau, of date Jany. 14th 1804: together with Exhibit B. (also annexed to petition) being a translation of Exhibits A. and C.; which documents are in the words and figures following, to wit:

Exhibit A.

Don Juan Ventura Morales, Contador de Exto. Intendente y superintendente interino de la Prova. de la Florida occidental, Ministro encargado para el arreglo y conclusion de los asuntos de Rl. Hacda. en esta de la Luisiana.

Por quanto habiendose presentado en este tribunal dn. Jorge Morgan de este comercio pretendiendo comprar de la Rl. Hacienda treinta mil arpanes de tierra planos entre el Rio Amite, y la Movila Territorio que antes fue del distrito de Galvestown, ofreciendo pagar el importe por tazacion, una tercera parte a contado, y el resto en

1906.

dos plazos dentro de un año, desde la fecha del titulo, dando para el efecto las seguridades necessarias, mandé que por secretaria se copiase el oficio, que en veinte y dos de Julio del año proximo pasado, se pasó por esta Intendencia á los Sres. Comissarios de la entrega de esta Provincia, sobre veneficiar las tierras realengas, y de la respuesta de dichos sres. sobre el particular y que se diese vista al Sor. Fiscal, y contextado, como opinase á favor de la solicitud del referido dn. Jorge Morgan, previne se testimoniase el decreto por el que mandé pasar á la consulta del Sor. Auditor Grra., el expediente sobre pretender dn. Thomas Urquhart se le vendiesen cinquenta mil arpanes de tierra planos en el distrito de Baton Rouge y el dictamen que dio en consequencia, para motivar esta pretencion: que verificado por antes de diez y nueve de Octubre, del año proximo pasado, Comisione al Agrimensor general dn. Carlos Trudeau, para que procediese á la medida, apeo y deslinde de los indicados treinta mil arpanes de tierra planos, y que verificase su estimacion nombrandose por peritos destinados asi por parte de la Rl. Hacienda, como por la del comprador, la que se efectuo á razon de cinco sueldos por cada arpan plano de los treinta mil solicitados por Morgan: que remitidas las diligencias del asunto, y unidas a las antecedentes, mandé dar vista al enunciado dn. Fiscal, quien con presencia, y conocimiento de todo propuso la aprovacion de la estimacion, y que hecho el entero en Arcas Rls. segun lo prevenido en el reglamento, se despachase al interesado el titulo en forma, que en este estado propuso el indicado dn. Jorge Morgan queria haser el pago del importe de la tierra todo al contado, y en certificaciones de credito contra la Rl. Hacda. tiradas por estos Rs. oficios, sin embargo de haberlo ofrecido haser en los terminos ya referidos, y dado traslado al Sor. Fiscal, como contexta se conforme, por auto de nueve del corriente, aprove la estimacion hecha de los treinta mil arpanes de tierra planos, que resultó ser á razon de cinco sueldos por cada arpan, como se ha referido y que pasase el expediente al ministerio de Rl. Hacienda para que por el se ajustase el valor, y que hecho el entero en Arcas Rs. en los terminos propuestos por el mencionado dn. Jorge Morgan: con mas lo correspondiente a la media annata, y conduccion, constando por la carta de pago se le despachase el titulo de propriedad en forma: Que por la carta de pago despachada por el citado ministerio con fecha veinte del presente, se ha acreditado que dn. Jorge Morgan ha enterado en Rl. Caxas, un mil, tres cientos cinquenta y quatro reales de plata: los doce mil, por el importe de los treinta mil arpanes de tierra planos que se le han veneficiado por parte de la Rl. Hacda. a razon de cinco sueldos cada uno; y los tres cientos cinquenta y quatro reales restantes por el derecho de media annata, y su conduccion. Por tanto, y usando de las facultades que me estan conferidas, en nombre del Rey Nro. Señor (Dios le gue.) concedo en propriedad al referido dn. Jorge Morgan, los treinta mil arpanes de tierra planos que ha solicitado situados que están en el distrito que antes fue de Galvestown, y

ahora corresponde al dominio de S. M. C. sobre la margen oriental, y en frente del rio Amit, a como ocho millas de la confluencia de dicho rio, con los de Iberville y San Bernardo: lindando que estan los mencionados treinta mil arpanes de tierra, por el sur con tierra medida á favor de dn. Geronimo Lachiopella, y a los otros lados con tierras vacantes y realengas del dominio real, paralelos los limites, y de angulos rectos, dirigidos norte y sur, con este y oeste de la actual aguja, sin atender á la variacion, declinando esta de ocho y medio grados al N. E. segun la medida y plano dado por el agrimensor gral. Dn. Carlos Trudeau distinguido con el N. 1775, que para la constancia, inteligencia, conocimiento del terreno concedido, su cituacion, linderos, rumbos, y distancias, se colocara con este titulo. Y en consequencia le imparto al enunciado dn. Jorge Morgan entero y directo dominio á los enunciados treinta mil arpanes de tierra planos, para que como proprios suyos, y como tierra comprada, y pagada á la Rl. Hacienda las posea y disponga de ellas a su voluntad con la calidad, y condicion, que ha de cumplir con lo dispuesto en la instruccion que sobre tierras, formó y publicó esta intendencia en 17 de Julio de 1799, en quanto le comprehendan sus articulos, de que se impondra para su inteligencia, y no alegar ignorancia. En fe de lo qual mande despachar el presente, firmado de mi mano, sellado con el de mis armas, y refrendado del infrascripto de Rl. Hacda. quien como la contaduria pral. tomará la razon. Dado en la Nueva Orleans, a veinte y tres de Abril, de mil ocho cientos quatro.

[SEAL.] (Signed) JUAN VENTURA MORALES.

Por Mdo. del Sor. Intendte.

(Signed) CARLOS XIMENES.

Queda tomada razon del titulo antecedente a buelta de 69 y siguiente del libro que esta a mi cargo destinado para las de esta clace.

(Signed) CARLOS XIMENES.

En la Contaduria pral. de Extos. del Ministerio de Real Hacienda de nuestro cargo, se tomó razon del titulo antecedente a foxo. 51, del libro destinado a este fin.

Nueva Orleans veinte y quatro de Abril de mil ochocientos quatro.

(Signed) GILBERTO LEONARD,
MANUEL ARMIREZ.

[For map see original, page 29.]

Don Carlos Trudeau, agrimensor rl. comisionado por el señor intendente general de esta Provincia de la Luisiana, para la direccion del apeo y estimacion de las tierras concedidos á titulo de venta

desde el margen oriental del Rio Amit hasta el de la Mobila &a. &a.

Certifico, aver medido y hecho medir a favor de Don George Morgan y en presencia de Don Thomas Power apoderado del pre nombrado Morgan, un terreno de treinta mil arpanes planos de tierra, medidos con la percha de la ciudad de Paris de diez y ocho pies de rey lineales de la misma ciudad, segun medida agraria en esta Provincia: cuyo terreno situado en el Distrito que fue de Galvezton, sobre el margen oriental y en frente del Rio Amit, a como ocho millas de la confluencia de dicho Rio con los Rios Iberville y San Bernardo, lindado á la parte del sur con tierra medida á favor de Don Geronimo Lachiapella, y a los otros lados con tierras vacantes y del dominio de S. M. los limites son paralelos y de angulos rectos dirigidos al norte y sur con este y oeste de la actual aguja, sin atender á la variacion, y declinando esta de ocho y medio grados al N. E. el apeo se principio en el limite inferior desde la orilla del Rio Amit, en frente de la Habitacion del nombrado Honnilot, en que. se marco un arbol de *Black Gum* ó olivero silvestre con las letras iniciales del interesado G. M. de aquel punto se medieron mil setecientos y setenta perchas al este de la aguja, en aquel punto se marco otro arbol de la misma marca G. M. en el limite superior, se hizo lo mismo aviendo marcado á la orilla del Rio Amit un arbol de *Sicamore* G. M. este limite tiene mil nueve cientos y ochenta perchas, terminandose al norte del limite inferior, dos brazos del arroyo de Greais Creek atraviesa enteramente el terreno del norte al sur el todo demuestrado en el plano figurativo que antecede en que va figurado el terreno los arboles y mojones que sirven de linderos y los demas confines naturales y artificiales &a. y para que conste forma el presente plano y relacion, doze Enero de mil ocho cientos y quatro años, firmado, Thomas Power, y Carlos Trudeau, agr. rl.

En el puesto de Galvezton hoy dia treze del mes de Enero de mil ocho cientos y quatro; en virtud del decreto del señor intendente general en fecha del dia treze del mes de Octubre proximo pasado. Procedimos á la estimacion y tasacion, de los treinta mil arpanes planos de tierra, medidos y lindados á favor de Don George Morgan, los que van figurados en el plano anterior, por cuyo efecto se nombraron peritos (a saver) Don Joseph Pereira y Don Mignel Masias, por parte de la real hacienda y Don Thomas Power apoderado del interesado nombra á Don Agustin Lumbar y Don Joseph Ramires, todos aquellos habitantes del puesto de Galveston, quienes presentes lo acceptaron y juraron, proceder fielmente y segun sus conocimientos á la justa y ligitima tazacion que puede valer el terreno. Despues de aver considerado la localidad del terreno sus buenas y inferiores calidades, tanto como las tierras anegadizas steriles y demas circunstancias, en presencia de señor Don Thomas Estevan comandante de Galvezton y de los testigos Don Phelipe de la Roque y Don James Elliot avaluaron los anteds. treinta mil arpanes planos, a razon de cinco sueldos cada arpan plano, lo que forme el precio total de mil

y quinientos pesos fuertes, en aqual precio se conforme el antedo. apoderado del interesado recivo como recive desde luego el antedo. terreno y de se dio por bien entregado á su voluntad, prometiendo de pagar fielmente en la real caxa, los anteds. quinze cientos pesos fuertes, en los terminos prescriptos por la ultima providencia del señor intendente general y en presencia de Don Thomas Estevan, commandante de Galvezton, lo firmo el antedo. apoderado, estimadores y testigos en el mismo puesto de Galvezton el dia quatorze del mes de Enero de mil ochocientos y quatro años (assi firmado), Thomas Power, Joseph Pereira, Miguel Masias, Cayetano Dias a ruego de Joseph Ramires, Agustin Lumbar, Phelipe de la Roque, James Thomas Estevan, y Carlos Trudeau, agral.

Certifico los antecedentes plano y relacion copiado de los originales que se hallan agregados a los expedientes del asunto y registrado en la oficina de Agrima. General, sentado en el libro D. No. 4 Vo. y fo. 113, 114 al plano 1715 de apeo. Y doy la presente en virtud de lo prevenido en el articulo XVI del Reglamento formado por la Intendencia General a fecha dies y siete Julio de mit setecientos noventa y nueve. Doy fe quatorze Enero de mil ocho cientos y quatro años.

(Signed) CARLOS TRUDEAU.

Exhibit B.

Comprising translations of Exhibits A and C. viz:

Translation of Exhibit A.

Dn. Juan Ventura Morales, paymaster in the army intendent and superentendant pro tem. of the Province of West Florida Minister appointed for the settlement and closing of the business of the Royal Treasury in Louisiana.

George Morgan, merchant of this place having come before this Tribunal wishing to purchase from the Royal Treasury thirty thousand arpents of land between the Amite River and Mobile, a territory which formerly belonged to the district of Galveston, offering to pay the amount by appraisement one third cash and the remainder in two instalments in one year from the date of the deed, giving for that purpose the necessary security, I ordered a copy to be made in the Treasury's office (Secretaria) of the official letter which was sent from this Intendant's office to the Commissaries for the surrender of this Province under date of the twenty-second of July of last year, relative to the improvement of the King's lands and also the answer of those gentlement and get the opinions of the Attorney General (Fiscal) the latter having answered favorably to the resquest of the said George Morgan, I directed the decree to the attested, in virtue of which decree I ordered to be forwarded to the Auditor of war for his opinions the documents relative to the request of Mr.

Thomas Urquhart to sell him fifty thousand arpents of land in the district of Baton Rouge and the report which he gave in consequence as a motive for this pretention: that this being done by decree of the nineteenth of October of last year I ordered the Surveyor General Charles Trudeau, to proceed to the measurement and demarcation of boundaries and limits of the above mentioned thirty thousand arpents of land and that he should have it appraised, competent persons being appointed, both by the Royal Treasury and the purchasers which was done at five cents (sueldos) for each of the thirty thousand arpents solicited by Morgan; that the proceeding on this business being returned and united to the preceeding ones, I ordered to take the opinion of the Attorney General (Fiscal) who with full knowledge of all, proposed the aprobation of the appraisements & that after payment was made into the Rl. coffers as prescribed by the regulation a full title should be delivered to the purchaser that in this stage of the proceeding, the aforementioned George Morgan proposed to pay the whole amount of the value of the land cash, and in certificates of credit against the Royal Treasury drawn by the these Royal officers, although he had before offered to make the payments in the manners above mentioned—having sent this proposition to the Attorney General (Fiscal) he having approved it, by decree of the ninth instant I approved the appraisement made of the thirty thousand arpents which was at five cents (sueldos) for each arpent, as aforementioned and I ordered the papers to be forwarded to Royal Treasury departments in order that the value should be there setled according to them and that on payment being made into the Royal coffers in the manner proposed by the said George Morgan, together with the amount of the annata for the half year &c. and on showing receipt for such payments a full title of property should be delivered to him—that the receipt issued by the said ministry (of finance) under date of the twentieth of the present month, shows that George Morgan has paid into the Royal coffers one thousand three hundred and fifty-four reals of plate (of 12½ cents each): the twelve thousand for the value of the thirty thousand arpents of land which have been cided by the Royal Treasury at the rate of five cents each arpent, and the three hundred & fifty-four reals remaining for the duty of annata for the half year &c. Therefore and in virtue of the powers granted to me, in the name of the King our Lord (whom God preserve) I grant to the said George Morgan the property of the thirty thousand arpens of land of which he has solicited the grant and which are located in the district which formerly was of Galveston and now form part of the dominion of H. C. M. on the eastern shore and in front of the Amite River, distant about eight miles from the junctions of said river with the river Iberville, and St. Bernard: the said thirty thousand arpens of land are contiguous on the south with lands measured in favor of Dn. Geromino Lachiapella and on the other sides with vacant Royal lands of the Royal dominion, the boundaries being parallel and at right angles running north & south

east and west by the compass without allowing for the variation of the needle which varies eight and a half degrees to the N. east according to the measuration and drafts furnished by the surveyor Em: Charles Trudeau which draft bears the number 1775 & will accompany this title deed in order to establish and make known the locations limits, points, of the compass and distances of the land granted and therefore it invests the aforesaid George Morgan with full and direct right over the said thirty thousand arpens of land to have and to hold as lands purchased of and paid for to, the Royal Treasury and that he may dispose of them as he may think fit; but with the condition that he is to comply with what is ordered in the instruction published by order of the intendant on the 17th of July 1799 as far as he comes within the limit of their provisions, of which he will inform himself and not plead ignorance, in testimony of which I have ordered these presents to be issued signed with my hand and sealed with my armorial seal and countersigned by the undersigned minister of the Royal Treasury who with.

Given in the city of New Orleans on the 23d day of April, one thousand eight hundred and four.

By order of his Exy. the Intendant,

CARLOS XIMENEZ.

(Signed) JUAN VENTURA MORALES.

The preceeding title is registered on the back of page 69 and following of the book under my charge destined to that purpose.

(Signed) CARLOS XIMENEZ.

In the principal office of the paymaster in the army of the Royal Ministry of Finance under our charge is registered the preceeding title at page 51 of the book intended for that purpoise. New Orleans fourst of April one thousand eight hundred and four.

(Signed) GILBERTO LEONARDO.

MANUEL ARMIREZ.

Translation of Procès verbal in Exhibit C.

[For Plan, see original on page 29.]

I Charles Trudeau Surveyor General commissioned by the Intendant General of this Province of Louisiana to direct the survey and appraisement of the lands granted and sold from the eastern bank of Amite River or for Mobile River &c.

I certify having measured and caused to be measured in favor of George Morgan and in presence of Thomas Power attorney for the said Morgan a piece of land of thirty thousand arpens measured with the perch of the city of Paris of eighteen feet royal measure (pies de rey) of the same city, land measurement in this province which tract is situated in the district formerly of Galveston on the

eastern bank and in front of the Amite Rivers, about eight miles from the junction of said river with the Iberville and San Bernardo rivers, contiguous to the South with lands measured for Geromino Lachiapella and on the other sides with vacant lands of the royal domain—the lines are parallel and at right angles running north and south east and west, by the compass and without allowing for the variation of the needle which is of eight and a half degree to the N. East, the measurement was commensed at the lower end from the bank of the Amite River, opposite the plantation of one called Honnitot where a mark was made on black gum tree or wild olive tree cutting therein the initials of the purchaser G M. From this point we measured one thousand seven hundred and seventy perches towards the east of the compass there another tree was marked with the same initials G M; on the upper boundary, the same thing was done having marked G M a sycamore tree on the bank of the Amite River; this boundary line is nineteen hundred and eghty perches in length, ending to the north of the lower line, two branches of Gray's Creek run through the whole length of the land from north to south as will appear by the accompanying dft. in which is shown the land, trees and land marks which serve as boundaries and also the other limits both natural and artificial.

In faith whereof I have made out the said dft. and the preceding statements. 12th January 1804.

(Signed) THOMAS POWER,
CHARLES TRUDEAU, *Surveyor.*

Appraisement. In the post of Galveston this day thirtienth of January one thousand eight hundred and four, by virtue of the decree of the Intendant General under date of the thirtienth of October last we proceeded to the appraisement and valuations of the thirty thousand arpens of land measured and surveyed in favor of George Morgan, which are represented in the accompanying dfts. and for this purpose four competent persons were appointed viz. Joseph Perrier and Michel Musins for the Royal Treasury and Thomas Power attorney for the purchaser appointed Augustin Lumbar and Joseph Ramiro, all of whom are inhabitants of the Port of Galveston and who being present accepted the appointement and swore to proceed faithfully to the buts of this knowledge to the just and true valuation of the land.

After having considerate its good and bad qualities and also the amount of overflowing lands barren lands and other particulars, they in presence of Dn Tomas Estevan commandant of Galveston and the two witnesses Philipe de la Roque and James Elliot they valued the said thirty thousand arpens at the rate of five cents for each arpent which makes the price for the whole to come at fifteen hundred dollars—this price was approved by the said attorney for the purchaser.

From this time the above mentioned land which was considered as

property conveyed to him to his satisfaction promising faithfully to pay into the royal coffers the aforesaid fifteen hundred dollars in the manner prescribed by the last order of the Intendant General—and it was signed by said attorney appraisers and witnesses in presence of Dn Thomas Estevan commandant of Galveston in the very port of Galveston, on the fourteenth day of January one thousand eight hundred and four (signed) Thomas Power, Joseph Pereira, Miguel Morins Cayetano Dias, for Joseph Ramirez, Augustin Lumbar, Philipe de Laroque, James, Thomas Estavan, Charle Trudeau, Surveyor.

I certify the above draft and statements to be copies from the originals which are answered to the documents belonging to this subject and are registered in the office of the Surveyor General and are set down in book D No. 4 fo. 113, 114 draft of survey 1715. I affix the press seal as it is provided in the article XVI. of the Regulations enacted by the Intendant General under date of the seventeenth of July seventeen hundred and ninety nine.

I attest, fourteenth January eighteen hundred & four.

(Signed) CARLOS TRUDEAU.

Endorsement on foregoing exhibits A and C.

"Filed Januy. 22d 1849, Rob. M. Lusher, Dy. Clerk. Offd. in "evidence by plaintiffs.

"LUSHER, *Dy. Clk.*

"May 29, 1849."

2°. The plaintiffs offered—to prove the original signatures to the foregoing Exhibit A and C—the following

Deposition of Bernard Marigny.

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U. S. Dist. Court. Eastn. District of La.

Testimony taken in open Court.

Bernard Marigny, Esq: a witness for the plaintiffs, being duly sworn, deposes as follows:

On being shewn the orig. document of record herein as Exhibit A and C annexed to petition, that he recognizes as true and genuine the signatures thereto of Juan Ventura Morales, Carlos Ximenes, Carlos Ximenes, Gilberto Leonard and Manuel Armirez; is well acquainted with all said signatures.

Wit: was well acquainted with George W. Morgan (mentioned in petn.); knows that he resided in Louisiana prior to the time at

which the government was changed, and continued to reside therein until his death (which took place about 10 years ago).

The Dist. Atty, present, propounds no cross questions.

(Signed) BERNARD MARIGNY.

Sworn to and subscribed in open Court May 29th 1849.

Attest: (sd.) ROBT. M. LUSHER,
Dy. Clerk.

Endorsement "off'd in evce. by plaintiffs and filed, May 29, 1849.
"ROB. M. LUSHER,
Dy. Clerk."

3°. The plaintiffs offered a document purporting to be a "Sale of Land—15th June, 1814, by G. W. Morgan to Stephen Henderson;" which document is in the words and figures following, viz:

Be it known that this day before me John Lynd notary public in and for this city of New Orleans personally appeared George W. Morgan of this city Esquire; who declared that for and in consideration of the price of Five dollars to him in hand paid the receipt whereof is hereby acknowledged, he does by these presents grant bargain sell assign transfer and set over unto Stephen Henderson also of this city Esquire present and accepting one equal third part of a tract of land. containing thirty thousand arpents superficial measure according to the plan of survey annexed to the act proceeding immediately the present, stuate in the heretofore province of West Florida, fronting on the River Amite to have and to hold the said third part of said tract of land, with all its woods, ways, waters, water courses, rights of servitude and other, unto the said Stephen Henderson his heirs and assigns to his and their proper use and behoof forever. Always provided however, and it is hereby covenanted and agreed by and between the parties hereto that the said George William Morgan, shall not be held and taken to warrant the title to said tract of land nor shall be in any wise responsible for any eviction of the said Stephen Henderson his heirs or assigns, therefrom, other than by any person or persons claiming under him the said George W. Morgan or his heirs. And it is further agreed that the third part of said track herein and hereby conveyed shall be taken and laid off from the center thereof and will consequently be bounded by the upper third part this day conveyed to William Kenner by the said George W. Morgan by act before me Notary, and by the lower third part of said track the property of the said G. William Morgan, and it is also agreed and understood, that nothing herein contained shall convey to the said Stephen Henderson more than one equal third part of the whole tract according to said plan of survey, even if by more accurate measurement the same should be found to contain less than the supposed superficies of thirty thousand arpents &c.

Thus done and passed at New Orleans this fifteenth day of June one thousand eight hundred and fourteen in presence of George Polloch and Carlile Polloch witnesses who hereunto sign their names with the parties and me notary.

Original signed:—S. Henderson, George W. Morgan, George Polloch, Carlile Polloch;—Jhon Lynd, Not. Pub.

A true copy.

(Signed) THEO. GUYOL,
Not. Pub.

Endorsement "annexed to petition and filed January 22d 1849; off'd in evidence May 29, 1849.

"ROB. M. LUSHER,
"*Dy. Clk.*"

4°. The plaintiffs offered a document entitled thus: "Sale of Land, 15 June 1814: Stephen Henderson to Samuel Elkins," which document reads as follows, viz:

Be it known that this day before me Jhon Lynd notary public in and for this city of New Orleans personally appeared Stephen Henderson of this city Esquire, who declared that for and in consideration of the some of five thousand dollars to him in hand paid the receipt whereof is hereby acknowledged, he does by these presents grant bargain and sell, assign transfer and set over unto Samuel Elkins of this city merchant, present and accepting a tract or parcel of land lying and situated in the heretofore province of West Florida fronting on the River Amite twenty five arpents, bounded on the upper side by land of this appearer, and on the lower side by lands of George W. Morgan forming a paralellogram containing or supposed to contain a superficies of five thousand arpents being the lower equal half part of a tract of land acquired by this appearer by purchase of said G. W. Morgan this day by act passed before me notary according to a plan of survey annexed to the margin of an act of sale of another tract of land also passed this day before me notary to William Kenner; to have and to hold the same with all its woods, ways, waters, waters courses, rights of servitude and other unto the said Samuel Elkins his heirs and assigns, to his and their proper use and behoof forever;—always provided however and it is hereby covenanted and agreed by and between the parties hereto that the said Stephen Henderson shall not be held and taken to warrant the title to said track of land, nor shall be in any wise responsible for any eviction of him the said Samuel Elkins his heirs or assigns other than by any person or persons claiming under him the said Stephen Henderson or his heirs.

And it is also agreed and understood that nothing herein contained shall convey to the said Samuel Elkins more than one equal half part of the whole tract so as aforesaid conveyed by the said G. W. Morgan to the said Stephen Henderson and supposed to contain ten

thousand arpents, even though upon more accurate measurement the same should be found to have a less superficies than is therein declared.

Thus done and passed at New Orleans this fiftienth day of June one thousand eight hundred and fourteen in presence of George Polloch and Savinien Blanc witnesses who hereunto sign their names with the parties and me notary.

Original signed; S. Henderson,—Sam. Elkins, Sav. Blanc,—George Polloch,—Jhon Lynd *not. pub.*

THEO. GUYOL,
Not. Pub.

A true copy.

Endorsement. "Annexed to petition and filed January 22d 1849, off'd in evidence by complainants. May 29 1849.

ROB. M. LUSHER,
Dy. Clk."

5°. The plaintiffs (heirs of Henderson, intervenors) offered a document thus labelled.

"Court of probates: estate of Stephen Henderson: John and Ann Henderson *vs.* Henderson's Executors and others. Judgment, May 1839."

Which document reads as follows, viz:

In the court of probates in and for the parish and city of New Orleans Friday 10th May 1839.

Estate of Stephen Henderson.

JHON AND ANNA HENDERSON
vs.
HENDERSON'S EXECUTORS AND OTHERS.

The plaintiffs alleging themselves to be sole heirs at intestate of Stephen Henderson and alleging the nullity of various provisions of his will claimed to be recognized as such heirs and placed in possession of his estate by two acts of compromise between the plaintiffs Stephen Henderson junior and the children of George Henderson duly represented and the executors of S. Henderson and various legaties, all the matters in controversy have been settled and after the appropriation of certain property to pay various legacies, the residue of the estate has been abandoned to Jhon and Ann Henderson each for one undivided fourth part, to Stephen Henderson jr. for one fourth part and to George Henderson and Caroline Eugenie Henderson children of George Henderson for the remaining fourth part by the acts of compromise the property reverting to the said parties is to be sold on certain terms and conditions named therein for the purpose of paying the debts of the successions effecting a partition thereof. William C. Mylne and Murray Manis Thomsons

have been shewn to be the lawful attornies in fact and agents jointly and severally of the plaintiffs, it appears from the evidence and aguements on file that all the legacies had been satisfied and that the executors are willing to abandon the section of the estate which is now claimed by Jhon and Ann Henderson, Stephen Henderson junior and the children of George Henderson, it is the opinion of the court that these parties have a right to demand and receive from the testamentary executors all the assets of the succession in their hands. As to the questions that arise under the compromise of the parties litegant and which have been submitted to the court, the court considers that they are only cognizable by tribunals of ordinary jurisdiction under the circumstances of this case, the court considering that by the averments of some of the defendants the State of Louisiana might have some pretensions to the estate of the deceased by reason that the plaintiffs are aliens natives of Scotland, the laws of which country do not permit testamentary disposition in favor of inhabitants of this state. It is ordered, adjudged and decreed that Jhon Henderson, Ann Henderson and Stephen Henderson each for one fourth part, and the children of George Henderson for the remaining fourth part be recognized as entitled to the succession of Stephen Henderson and that Williams C. Mylne and Murray M. Thomson be recognized as the attornies and agents in fact joint and several of John Henderson and Ann Henderson: that the testamentary executors Pierre A. Rost and Jonathan Montgomery do surrender to said parties the seizin of the successions and do render them an account of their administration within ten days from the notification hereof, and it is further ordered that notifications of this judgment be given to the attorney general as representing the interest of the States in the succession.

New Orleans 24th May 1839.

(Signed) J. BERMUDEZ,
Judge.

A true copy.
New Orleans 28th May 1849.

(S'd) F. R. VIENNE,
Dy. Clerk.

Endorsement. "Off'd in evce. by complain'ts & filed May 29 1849.
"ROBT. M. LUSHER,
"*Dy. Clerk.*

6° The plaintiffs (heirs of Kenner, intervenors) offered a document thus entitled:

"Sale of land: 15th of June, 1814, George W. Morgan to William Kenner;" which document reads as follows, to wit:

Be it known that this day before me John Lynd Notary Public in and for this city of New Orleans personally appeared George W.

Morgan of this city Esquire who declared that for and in consideration of five dollars to him in hand pay, the receipt whereof is hereby acknowledged, he does by these presents grant, bargain sell assign transfer and set over unto William Kenner also of this city Esquire, here present and accepting, one equal third part of a tract of land, containing thirty thousand arpents superficial, measure according to the place of survey annexed to the margin of this act, situate in the heretofore Province of West Florida, and fronting on the River Amite; to have and to hold the said third part of said tract with all its woods, ways waters watercourses, rights of servitudes and other, unto the said William Kenner his heirs and assigns to his and their proper use and behoof forever; always provided however and it is hereby covenanted and agreed by and between the parties hereto that he the said George W. Morgan shall not be held and taken to warrant the title to said tract of land, nor shall be in any wise responsible for any eviction of the said William Kenner his heirs or assigns therefrom other than by any person or persons claiming under him the said George W. Morgan, or his heirs. And it further agreed that the said one equal third part of said land shall be taken and laid off from the upper part of said tract, and shall include the quantity of one thousand superficial acres, fronting on said river, sold by him the said George W. Morgan to Jhon McDonough by act passed before me notary.

And it is further agreed, that nothing herein contained shall convey to the said William Kenner, more than an equal third part of the whole tract according to said plan of survey even if by more accurate measurement the same should be found to contain less than the supposed superficies of thirty thousand arpents.

Thus done and passed at New Orleans this fifteenth day of June One thousand eight hundred & fourteen in presence of George Polloch, and Carlile Polloch witnesses who hereunto sign their names with the parties an me notary.

Signed, George W. Morgan, William Kenner, Carlile Polloch, George Polloch, Jhon Lynd Not. Pub.

A true copy.

(Signed) THEO. GUYOL,
Not. Pub.

Endorsement:—"Annexed to intervention of Kenner's heirs and filed February 8th 1849, and offd. in evidence by complainants, May 29, 1849.

"ROBT. M. LUSHER,
"*Dy. Clerk.*"

7° The plaintiffs (Kenner's heirs) offered a document, labelled: "Court of Probates. Estate of the late William Kenner. Petition for and appointment of Administrator;" which document reads as follows, viz:

To the Honorable the Court of Probates in and for the Parish of New Orleans.

The joint petition of Martha Kenner the legitimate wife of Jhon B. Humphey and by him duly assisted and authorized, Frances Ann Kenner widow of John Dick, a minor emancipated by marriage assisted by the said John B. Humphrey her curator ad bona ad hoc, Jhon B. Humphrey acting as tutor of Duncan Kenner a minor under the age of puberty, Minor Kenner, Williams Butler Kenner, and George Kenner, the three latter named being minors above the age of puberty and assisted by their curator ad bona Jhon B. Humphreys and by their curator ad tites James H. Shepherd, humbly sheweth:

That your petitioners are the only children of the late William Kenner and Mary Minor his wife both deceased, and as such called by law to their successions.

That pursuant to orders of this honorable court the inventories of the property belonging to the estates of the said Kenner and his wife have been made according to law, and are now on file in the office of the register of wills of the parish aforesaid.

That from said inventories it appears that the property belonging to both the said estates amount to the sum of two hundred and seventy seven thousand two hundred and seventy eight dollars, out of which seventy thousand and two hundred dollars worth of property are represented as belonging to the estate of the said Mary Minor as brought by her into her marriage with the said William Kenner, and as her share in the community existing between them untill her death.

And your petitioners further shew that they do accept both the said successions under the benefit of inventory and pray that the said John B. Humphreys in his capacities aforesaid be appointed administrator to manage the property thereof, on his giving as he hereby offers to give good and sufficient security for the fedelity of his administration, as the law requires.

And your petitioners as in duty bound will ever pray.

(Signed) MAZUREAU, *for Prs.*
J. B. HUMPHREYS,
Tutor and curator and authorizing my wife as above said.
J. H. SHEPHERD.

(*Order.*)

Let John B. Humphreys be appointed administrator to the undivided estates of Wm. Kenner and Mary Minor his wife both deceased, according to the prayer of the within petition, on his giving good and sufficient security in the sum of three hundred forty-six thousand five hundred and ninety-seven dollars being the sum equal to and one-fourth above the whole amount of the property enventoried

and appraised as belonging to the said estates, and let Philip Minor and wade Hampton be accepted as his joint securities.

(Signed) P. PITOT,
Judge.

New Orleans, May 31, 1836.

A true copy.

[SEAL.] (Signed) P. M. BERTIN,
Dy. Clk.

New Orleans 28th May 1849.

Endorsement: "Offd. in evce. by compt.," filed 29 May 1849.
"ROBT. M. LUSHER,
"*Dy. Clerk.*"

8°. The plaintiffs (Kenner's heirs) offered the following

Affidavit of I. T. Preston, as to Heirship.

HEIRS OF SAMUEL ELKINS
vs.
THE UNITED STATES.

Isaac T. Preston a witness of the heirs for William Kenner being duly sworn doth depose and say that he was well acquainted with the late William Kenner and also with his children and that the individualy in their intervention named are his only children and heirs.

(Signed) ISAAC T. PRESTON.

Sworn to and subscribed the 29 May, 1849, in open court and before

(Signed) ROB. M. LUSHER,
Dy. Clerk.

Endorsement: "Offd. in evidence by complts. and filed May 29 1849.
"ROBT. M. LUSHER,
"*Dy. Clerk.*"

9°. The plaintiffs offered a document thus entitled:
"Proceedings of Ct. of Probates: Recognition of heirs of Elkins, May 2, 1835;" which document reads as follows, to wit:

To the honorable the Court of Probates for the Parish of Orleans
The petition of Calvin J. Keith of Montpelier in the county of Washington and State of Vermont, now in the city of New Orleans. Respectfully shews,
That Samuel Elkins lately departed this life in this city and that

his succession has been opened in this court, that the sole heirs of said deceased are 1st. Moses Elkins of Potten in the Province of Lower Canada, father of deceased, and 2dly. his seven brothers and sisters, to wit: Mark L. Elkins, Moses Elkins jr. and David Elkins of Potten aforesaid, and Hannah Elkins wife of Jesse Carnser of Sutton in Lower Canada, Sabra Elkins wife of Stephen Tree of Stanbridge in Lower Canada, Catharine Elkins widow of Thomas Wallace of Cabot, Caledonia County in the State of Vermont, and Judith Elkins wife of Farrand Livingston of Potten aforesaid.

Petitioner further shews that deceased was never married, left no legitimate descendants, and that his mother died before him and that by the last will and testament of deceased, duly admitted to probate in this honorable court particular legacies were left by deceased to the several persons following to wit: to Harriet Elkins and Henry Elkins children of Jonathan Elkins of Peacham Caledonia County in the State of Vermont, to John Elkins a cousin of deceaced, residing in Cabot aforesaid: to Suzan and John McLean of Cabot aforesaid: to Margaret Wallace of Berlin Washington County Vermont and to Mathew P. Wallace of New York.

Petitioner shews that he is the duly authorized agent of all the heirs and legatees herein before named, and has come to this city at their special instance and request, for the purpose of representing them in their several capacities aforesaid and he annexes hereto and as part of this petition all the powers of attorney by virtue whereof he acts and duly authenticated depositions made by respectable individuals establishing the quality of the several heirs herein before mentioned.

Wherefore petitioner prays that the testamentary executors of the said Samuel Elkins, and John Slidele, Esqr. the attorney appointed by this court to represent the absent heirs be cited to appear and answer this petition, and that after due proceedings had, the said Moses Elkins, the father, and Mark L. Elkins, David Elkins, Moses Elkins jr., Hannah Carnser, Sabra Tree, Catharine Wallace, and Judith Livingston, the brothers and sisters of deceased be recognised as his sole heirs, the father for the one-fourth part of the succession and the brothers and sisters, each for the seventh part of the remaining three-fourths of said succession, and that this petitioner be recognised as the duly constituted agent and attorney in fact of said heirs and of the different legatees herein before named, and that the court make such further order in the premises as the nature of the case may require.

(Signed) BENJAMIN,
For Petioneer.

I have no objection to the granting of the prayer of the petitioner.

(Signed) JOHN SLIDELL,
Atty. for absent Heirs.

In the Court of Probates in and for the parish and city of New Orleans.

Saturday, 2nd May, 1835.

SUCCESSION OF SAMUEL ELKINS THE ABSENT HEIRS
vs.
THE TESTY. EXRS. AND ATTY. OF ABSENT HEIRS.

This case came regularly on this day for trial. J. P. Benjamin for plffs.; L. Pierce for executors; John Slidell for absent heirs.

When after hearing respective counsel the court being satisfied with the authenticity and correctness of the powers and documents annexed to the plaintiffs petition do order adjudge and decree that the following named persons be recognised as the true and lawful heirs of the late Samuel Elkins deceased to wit: 1st Moses Elkins of Potten in the Province of Lower Canada father of the deceased and 2dly his seven brothers and sisters to wit: Mark L. Elkins, Moses Elkins Jr. and David Elkins of Potten aforesaid, and Hannah Elkins wife of Jesse Carnser of Sutton in Lower Canada, Sabra Elkins wife of Stephen Tree of Stanbridge in Lower Canada, Catharine Elkins widow of Thomas Wallace of Cabot, Caledonia county in the State of Vermont and Judith Elkins wife of Farrand Levingston of Potten aforesaid. The father for one-fourth part of the succession, the brothers and sisters each for the seventh part of the remaining three-fourths of said succession, ordered further that this petitioner Calvin J. Keith be acknowledged and recognised as the legal agent or attorney in fact of all of said heirs, and that he be in said capacity authorized to take possession of the succession for those whom he represents; ordered moreover that he said Calvin J. Keith be recognised as the attorney in fact of the following named persons legatees of the deceased to wit: Harriet Elkins and Henry Elkins children of Jonathan Elkins of Peacham, Caledonia county State of Vermont, John Elkins a cousin of deceased residing in Cabot aforesaid, Suzan and John McLean of Cabot aforesaid, Margaret Wallace of Berlin Washington county Vermont, and Mathew P. Wallace of New York and that he be authorized to receive their legacies in his said capacity, the costs of this suit to be borne by the succession.

(Signed) CHARLES MAURIAN,
Judge.

New Orleans, 7th May, 1835.

COURT OF PROBATES
No.
ESTATE OF SAMUEL ELKINS.

In conformity, to an act of the Legislature approved March 6th 1830, I received of Mr. Calvin J. Keith the sum of twelve dollars,

for the tax due on an order of putting into possession, issued in this suit the amount of which is of a sum above $1000 dollars.

(Signed) A. CRUZAT,
Parish Treasurer of the Parish of Orleans.

Filed 1st June, 1835.

(Signed) S. BLOSSMAN,
Deputy Rgr. of Wills.

The above is a copy of the original this day produced in evidence by the plaintiffs in the case of No. 143. Elkins' Heirs *vs.* The United States, U. S. District Court, May 29, 1849.

(S'd) ROB. M. LUSHER,
Dy. Clerk.

Endorsement: "Offd. in evidence by plffs. and filed May 29, 1849.

"ROB. M. LUSHER,
"*Dy. Clk.*"

10°. The plaintiffs proposed to offer in evidence a certain plat of survey and certificate of David W. Morgan dated the 8th day of March, 1810.

It was admitted that said Morgan was dead and his signature to the document genuine, and that he had been a surveyor in early times.

The document however was objected to by the Attorney of the United States on the ground that it did not purport to have been made by a commissioned surveyor of the United States, and that it was made long after the change of government.

Which grounds were sustained by the court, and the document *rejected.*

11°. The plaintiffs also proposed to offer in evidence a certain plat of survey made by Lafon, surveyor, in 1816.

Which was objected to on the same grounds and *rejected* by the court.

Wherefore the plaintiffs tendered the foregoing note of such rejection, to be placed of record.

Attest: (S'd) ROBR. M. LUSHER,
D'y Clerk of the Court.

May 29th, 1849.

12°. The plaintiffs offered four several receipts for taxes paid for years 1814, '17, '27 and '28; which are as follows, viz.:

G. W. Morgan, W. Kenner and S. Henderson, *Dr.*

For State tax for the year one thousand eight hundred and thirteen on the following lands as per table of assessment.

10,000 acres on the Amite,		first class	} estimated $234,37	
5000	do.	do.	second class	
15,000	do.	do.	third class	
			Tax,	39 49

Received the sum of thirty nine dollars 49 cents from G. W. Morgan.

D. KEMP, *C.*

New Orleans 13th Jany. 1814.

Recd. of George W. Morgan twenty two dollars and 32 cents being the amount of State and Parish Taxes in Parish of St. Helena for the year 1817.

DAVID KEMP, *Collector.*

New Orleans May 5th 1818.

Received of George W. Morgan twenty four dollars and $\frac{20}{100}$ in full of his State and Parish Tax for the year 1827. Parish St Helena La.

JOHN KINCHEN, *Shff. & T. C.*

Received of George W. Morgan the sum of eighteen dollars seventy five cents, for his state and Parish tax, for the Parish of St. Helena, State of Louisiana, due for the year 1828.

$18 75.

JOHN KINCHEN, *T. C.*

Endorsement: "Offd. in evce. by plffs.; admitted subject to ex-
"ceptions taken, and filed May 29, 1849.

"ROBT. M. LUSHER, *Dy. Clerk.*"

13°. The plaintiffs offered a certain document purporting to be a "joint obligation of Kenner & Henderson, & G. W. Morgan, for costs and charges on lands &c. which reads as follows, viz.:

Be it known that we the undersign'd are each concerned one third in a tract of land of thirty thousand acres, bought by George W. Morgan of the Intendant of Louisiana and do bind ourselves equally for the cost and charges on the same.

(Signed) KENNER & HENDERSON,
GEORGE W. MORGAN.

New Orleans 23d March 1804.

Deposition: in open Court May 29 1849.

A. Hennen, Sr. witness for complaints, on oath testifies that the signatures to the within obligation are veritable and genuine.

(Attest) ROBR. M. LUSHER, *Dy. Clerk.*

Endorsement: "Offd. in evce. by plffs. and filed May 29 1849.
"ROBT. M. LUSHER, *Dy Clerk.*"

And be it further remembered that, on the submission of the intervention of Loyal Case, curator of the estate of Satterlee, on the 6th day of June 1849, the two following pieces of evidence were offered on behalf of said intervenor, viz.:

1°. Document entitled thus:—"June 25th 1841. Sale of land. Syndic of the creditors of George W. Morgan to John W. Satterlee;" which document reads as follows, viz.:

Be it known that this day before me Carlile Pollock a notary public in and for this city and parish of New Orleans duly commissioned and sworn personally came and appeared George Washington Morgan, of this city herein acting in his quality of sole syndic of his own creditors duly elected at a meeting held before me on the twenty ninth of September last (1840). Which appearer declared that in pursuance of the public adjudication of the property by him surrendered to his creditors, made on the seventh of April last by H. F. Domingon auctioneer in this city under an order of the parish court for this parish bearing the first of December last (1840) as appears by the annexed copy of the procès verbal or account sales of said auctioneer he does by these presents sell with all the warranties by law implied in such cases and also with all legal subrogations unto John W. Satterlee of this city here present and accepting all the right, title, interest, property, claim and demand which the said George W. Morgan has had now has or may have under the titles herein after recited of in and to a certain tract of land situate on the eastern or left bank of the River Amite about eight miles from below the confluence of the River Comit in the parish of Livingston and county of Feliciana, in this State, containing more or less nine thousand seven hundred and fifty acres superficies. Together with all the improvements, if any thereon, and all the rights, privileges and advantages thereunto belonging or in anywise appertaining, to have and to hold said premises unto said purchaser his heirs and assigns to their only proper use and behoof forever.

This sale is made in conformity to the said public adjudication for the price of four hundred and fifty dollars which the said syndic acknowledge to have received from the purchaser in a promissory note drawn by the latter for the like amount under date of the seventh of April last to the order of and endorsed by Isaac Clark payable at one year at the Louisiana State Bank in this city duly paraphed by me and to bear interest at the rate of ten per centeem per annum for all retard of payment after the maturity of the same.

And to secure the payment of said note special mortgage in favor of the said syndic and the person or persons whom may eventually be the bearer or bearers of the same, is hereby retained on said

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premises, the purchaser binding himself and his heirs not to alienate nor uncumber the same to the prejudice of this act. These nine thousand seven hundred and fifty acres of ground herein and hereby sold and conveyed make part of a tract of land containing in one parcel thirty thousand acres (bounded on the south or lower limit by lands conceded to Geromino Lachiapella and on the other sides by vacant lands) originally sold and conceded by the Spanish Government of the Province of West Florida thro' Don Juan Ventura Morales intendant of said province unto the said George W. Morgan, by deed or patent of concession and sale granted on the twenty-third of April 1804, registered in the office of Don Carlos Ximenes Notary of the real hacienda page 69 of the book kept by him for that purpose, also registered in the office of Don Gilberto Leonard principal contador, page No. 51 of the book of his office kept for that purpose on the twenty-fourth April 1804 of which whole tract previous survey had been duly made in pursuance of the order of said intendant by Don Carlos Trudeau on the fourteenth January 1804, according to a plot No. 1715 delivered together with the certificate of said survey and the patent of said concession to the said G. W. Morgan who has now surrendered said documents to the present purchaser who hereby acknowledges the receipt thereof.

And the said George W. Morgan having by private understanding been equally interested with William Kenner and Stephen Henderson in obtaining said concession the said tract of 30,000 arpens was afterwards divided between them as nearly as could be in three equal parts of ten thousand acres each according to a plat made by David B. Morgan deputy delegate of the Surveyor General on the eighth March 1810 according to which plat the lower part of said track say the ten thousand acres, next to the concession of Genonimo Lachiapella fell to the share of the said George W. Morgan and in this part they are contained the 9750 arpens hereby sold to the said John W. Satterlee, to whom the said present seller has likewise delivered the last mentioned plat as the latter acknowledges.

And thereupon appeared and intervened to this act Jean Adolphe Blanc and Achille Lion of this city who having taken cognizance of the foregoing act severally declared that whereas at the adjudication made on the seventh of April last of the property surrendered by the said G. W. Morgan the lands in the present tract aforedescribed were adjudged to them as the highest bidders at the price of four hundred and fifty dollars and that they have cited their rights in said purchase to the said John W. Satterlee, they do by these presents approve ratify and confirm the foregoing sale made to the latter and renounce in his favor and assign unto him, present and accepting all rights and claims which they acquired in and to said premises by virtue of said adjudication.

Done and passed à New Orleans this twenty-fifth day of June eighteen hundred and forty-one in presence of Achille Chiapella and

Herman Lucas witnesses who have hereunto signed their names with the said appearers and me Notary, A. Chiapella, Blanc, G. W. Morgan, H. Lucas, A Lion, J. W. Satterlee, Carlile Pollock N.

I certify that the foregoing is a true copy of the original act extent on the records of my predecessor late Carlile Pollock.

In faith whereof I grant these presents under my hand and the impress of my official seal at New Orleans this twenty eighth day of May 1849.

[SEAL.] (Signed) JOHN E. HOLLAND, *N. P.*

Endorsement: "Annexed as exhibit to intervention of loyal case, and filed May 29 1849, June 6; off'd in evidence by intervenor, on submission.

"ROBT. M. LUSHER, *Dy. Clerk.*"

Document entitled: "APPOINTMENT OF CURATOR."

The State of Louisiana Parish of Livingston eigth Judicial District court succession of John W. Satterlee deceased, to all who shall see these present greeting.

Know ye that Loyal Case has been duly confirmed by the Honorable the Eighth Judicial District Court of the State of Louisiana holding sessions in and for the Parish of Livingston curator of the vacant succession of John W. Satterlee deceased; and having taken the oath as such and given bond according to lawfull faith and credit ought and must be given to all his acts.

Witness the Honorable Martin G. Penn, Judge of our said Court this the 8th day of May A. D. 1849.

[L. S.] (Signed) L. B. KIMBALL,
Clerk.

I certify the foregoing to be a true copy of the original letters on file in my office. Given under my official seal and signature this the 8th day of May A. D. 1849.

(Signed) L. B. KIMBALL,
Clerk.

Endorsement: "Annexed to intervention and filed, May 16, 1849; and off'd in evidence June 6, 1849.

"ROBT. M. LUSHER,
"*Dy. Clerk.*"

Close of Evidence.

And afterwards, at the same May Term, to wit: on the seventh day of June A. D. 1849, was delivered and rendered and recorded the following

Judgment and Decree.

Which was duly engrossed and signed on the 8th day of June, 1849 as follows, to wit:

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United States District Court, Eastern District of Louisiana. Sitting in Chancery.

Thursday, June 7th, 1849.

Present: the Hon. Theo. H. McCaleb.

THE HEIRS OF SAMUEL ELKINS AND OTHERS, INTERVENORS, vs. THE UNITED STATES. } No. 143. May Term 1849.

This case came on for hearing on the twenty-ninth day of May, 1849, at the present term, on the petitions, answers, replication, exhibits and proof, and was argued by counsel for the complainants and the Attorney of the United States for the defendants, and was subsequently, to wit: on the 6th instant, submitted as to the intervention of loyal case, Administrator of the Estate of John W. Satterlee, for a final decree; and the court being duly advised in the premises, and having fully considered the case, on this day rendered its opinion and decree as follows:

The petitioners and intervenors claim the tract of land in controversy, by virtue of a purchase of thirty thousand arpents of land from the Spanish Government by George W. Morgan. It is fully proved that the said purchaser was a resident of Louisiana under the Spanish Government and, indeed, until his death, which occurred about ten years ago.

It appears from the exhibits that, in the early part of the year 1803, he made application to the Spanish Government to purchase thirty thousand arpents of land situated in the then District of Galveztown, fronting the eastern bank of the Amite River beginning about eight miles above its junction with the Iberville River. On the 22d of July, 1803, his application was submitted by Juan Ventura Morales, the Intendant General of the Province, to the King's Attorney for the Province, and to the Auditor of war, who approved of the application. On the 19th day of October, 1803, the Intendant General, by a decree, ordered Charles Laveau Trudeau, the Surveyor General of the Province, to survey and mark the boundaries of the tract of thirty thousand arpents of land and to have it appraised by appraisers appointed by the Royal Treasury and by Morgan, who proposed to purchase it. This was done: the survey was returned on the 12th of January 1804, and on the 14th the land was appraised at five cents an arpent, amounting to fifteen hundred dollars, and Morgan paid that sum with the approbation of the Intendent General, Attorney of the King, and Auditor of war, into the royal treasury; and on the 23d day of April 1804, Juan Ventura Morales, the Intendant General of the Province, made, in pursuance of the foregoing proceedings a formal title to the land to George W. Morgan. The proceedings took place before the cession

of the Province of Louisiana to the United States. The contract of sale was perfect in the month of October, 1803, the Spanish Government having agreed to sell, and Morgan to buy, at an appraisement by appraisers to be appointed by them.

The petitioners and intervenors have exhibited certain mesne conveyances and proofs of heirship and curatorship, which shew that they are now the owners of the whole tract of thirty thousand arpents.

For the reasons given by the court in the case of Joseph Reynes *versus* the United States, the court is of the opinion that the petitioners' claim is guaranteed by the treaty of cession of Louisiana to the United States and the laws of nations, and that they are entitled to the relief granted by the act of Congress, approved on the 17th day of June 1844, and the act approved May 26th 1824 to which it refers.

It is therefore, ordered, adjudged, and decreed, that the sale by the Spanish Government to George W. Morgan, in the year 1803 and 1804 of thirty thousand arpents of land, is valid against the United States, and that the land described in the titles and the survey made by Carlos Laveau Trudeau, annexed as exhibits A. & C. to the plaintiffs' petition bounded, north by vacant lands at the time of the concession; south by lands granted to Geronimo Lachiapella; east, by vacant lands, and west by the Amite River, belongs to the petitioners and intervenors to wit:

Five thousand arpents to the heirs of Samuel Elkins.

Five thousand arpents to the heirs of Stephen Henderson;

Ten thousand arpents to the heirs of William Kenner, and

Ten thousand arpents to Loyal Case, as curator of the estate of John W. Satterlee.

And should it appear that any part of said tract of land is held by titles emanating from the United States, it is further ordered, adjudged and decreed that, for all the land within said limits so held, which has been sold or otherwise disposed of by the United States, the petitioners shall be authorized to enter, after the same shall have been offered at public sale, the like quantity of land, in parcels conformable to sectional divisions and subdivisions, in any land office of the United States in the State of Louisiana; and it is further ordered that, in all other respects, the petitioners and intervenors shall be entitled to all the benefits and advantages of the act of Congress approved on the 26th day of May 1824.

Judgment rendered 7th June 1849.

Judgment signed 8th June 1849.

[SEAL.] (Signed) THEO. H. McCALEB,
U. S. Judge.

Attest: (S'd) ROBR. M. LUSHER,
Dy. Clerk.

And thereafter and finally at the same term and in the said 8th day of June, 1849, was moved for in open court, granted, and recorded the following

Order of Appeal.

UNITED STATES OF AMERICA,
Eastern District of Louisiana, s.s.

No. 143. District Court May Term 1849.

Before the honorable Theodore H. McCaleb Judge of the said District Court, Friday 8th June 1849.

On motion of Logan Hunton, Attorney of the United States, for the district aforesaid, and of Thomas J. Durant on the same behalf and on giving the court to understand and be informed that the United States are injured and aggrieved by the judgment of this honorable court rendered against them at this term, in the matter of the heirs of Samuel Elkins (in which suit the heirs of Kenner, the heirs of Henderson and Loyal Case, administrator of Satterlee, are intervenors) *versus* the United States, and desire to appeal therefrom:—

It is thereupon ordered by the court that an appeal be allowed in favor of the United States from the judgments aforesaid, returnable to the Supreme Court of the United States, at the next term thereof, after the date of this order.

UNITED STATES OF AMERICA,
Eastern District of Louisiana:

I, Needler R. Jennings, Clerk of the District Court of the United States sitting at New Orleans in and for said district, do hereby certify, that the foregoing sixty-four folios, including plan on folio 29 and (65th) six lines contain and form a true, faithful, correct and complete transcript of all the proceedings, process, pleadings, documents, and other matters as they now remain on file and of record in a certain cause in chancery wherein the heirs of Sam'l Elkins & Intervenors are petitioners and the United States of America, defendants, No. 143 of the Land Docket of said court.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said court, at the city of New Orleans, this thirty first day of August, one thousand eight hundred and forty-nine, and the 74th year of American Independence.

[SEAL.] N. R. JENNINGS,
Clerk U. S. District Court, Eastern Dist. of Louisiana.

I, Theodore H. McCaleb, Judge of the District Court of the United States for the Eastern District of Louisiana, do certify, that N. R. Jennings, who subscribed the above certificate, was, at the

time of signing the same, and is now, the duly appointed and legally authorized clerk of said court; that full faith and credit are due and ought to be given to all his attestations as such clerk, and that his above certificate is in due form of law.

In witness whereof I hereunto set my hand and seal this 24th day of Septr. 1849.

[SEAL.] THEO. H. McCALEB.

THE UNITED STATES OF AMERICA,

To the Heirs of Samuel Elkins, decd., Petitioners, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to an Order of Appeal granted, on the eighth day of June, 1849, by the District Court of the United States in and for the Eastern District of Louisiana, in a certain cause in Chancery, (under the Acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 143) *Heirs of Saml. Elkins* (et al.) vs. *The United States*, wherein the said United States of America are now Appellants, and you are Appellees, to show cause, if any there be, why the judgment rendered against the Appellants, as in the said Order of Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand, and the Seal of the said Court, at the city of New Orleans, this twenty-fourth day of September, A. D. 1849.

[SEAL.] THEO. H. McCALEB,
Judge of U. S. District Court Eastern District of Louisiana.

J. T. PRESTON, Esq.
Atty.

Attest: ROBR. M. LUSHER,
Dy. Clerk.

EASTERN DISTRICT OF LOUISIANA,
United States District Court:

No. 143.

Elkins' Heirs, Plaintiffs.

Orig. { HEIRS OF SAM. ELKINS, ET AL. vs. THE UNITED STATES. } Citation of Appeal.

MARSHAL'S RETURN.

Recd. October 9, 1849, and on the 17th October, 1849, served a copy of the within citation of appeal on I. T. Preston, Esq., Attorney for

the plffs. by handing the same to him in person at New Orleans, & who at the same time accepted service for the plffs.

M. M. THOMAS,
U. S. Dy. Marshal East. Dist. La.

Retnd 19 Oct. 1849.

Return registered Oct. 19, 1849.

ROBR. M. LUSHER,
Dy. Clerk.

THE UNITED STATES OF AMERICA,

To the Heirs of William Kenner, decd., Intervenors, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to an Order of Appeal granted, on the eighth day of June, 1849, by the District Court of the United States in and for the Eastern District of Louisiana, in a certain cause in Chancery, (under the Acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 143) *Heirs of Saml. Elkins & others* vs. *The United States*, wherein the said United States of America are now Appellants, and you are Appellees, to show cause, if any there be, why the judgment rendered against the Appellants, as in the said Order of Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand, and the seal of the said Court, at the city of New Orleans, this twenty-fourth day of September, A. D. 1849.

[SEAL.] THEO. H. McCALEB,
Judge of U. S. District Court Eastern District of Louisiana.

I. T. PRESTON,
Atty. for Heirs.

Attest: ROBR. M. LUSHER,
Dy. Clerk.

EASTERN DISTRICT OF LOUISIANA,
United States District Court:

No. 143.

Kenner's Heirs, Intervenors.

Orig. { HEIRS OF SAML. ELKINS, ET AL. vs. THE UNITED STATES. } Citation of Appeal.

MARSHAL'S RETURN.

Recd. October 9, 1849, & on the 17th October 1849, served a copy of the within citation of appeal on I. T. Preston Esq. Attor-

ney for heirs, by handing the same to him in person at New Orleans, & who at the time accepted service for the plffs. ints.

M. M. THOMAS,
Dy. Marshal U. S. East. Dist. La.

Returned 19 Oct. 1849.

Return registered, Oct. 19, 1849.

ROBR. M. LUSHER,
Dy. Clerk.

THE UNITED STATES OF AMERICA,

To the Heirs of Stephen Henderson, dec'd., Intervenors, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to an Order of Appeal granted, on the eighth day of June 1849, by the District Court of the United States in and for the Eastern District of Louisiana, in a certain cause in Chancery, (under the Acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 143) *Elkins' heirs (& others)* vs. *The United States*, wherein the said United States of America are now Appellants, and you are Appellees, to show cause, if any there be, why the judgment rendered against the Appellants, as in the said Order of Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand, and the Seal of the said Court, at the City of New Orleans, this twenty fourth day of September, A. D. 1849.

[SEAL] THEO. H. McCALEB,
Judge of U. S. District Court Eastern District of Louisiana.

I. T. PRESTON, ESQ.,
Atty. for heirs.

Attest:

ROBR. M. LUSHER,
Dy. Clerk.

EASTERN DISTRICT OF LOUISIANA,
United States District Court:

No. 143.

Henderson's Heirs, Intervenors.

Orig: { HEIRS OF SAML. ELKINS ET AL: vs. THE UNITED STATES. } Citation of Appeal.

MARSHAL'S RETURN.

Recd. October 9, 1849, and on the 17th October 1849 served a copy of the within citation of appeal on I. T. Preston Esq., Attorney for the Heirs and Intervs. by handing the same to him in person at New Orleans & who at the time accepted service for the Plffs Ints.

M. M. THOMAS,
U. S. Dy. Marshal East. Dist. La.

Returned 19 Oct. 1849.

Return registered Oct. 19, 1849.

ROBR. M. LUSHER,
Dy. Clerk.

THE UNITED STATES OF AMERICA,

To Loyal Case, curator of the estate of Jno. W. Satterlee, decd. Intervenor, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at the City of Washington on the first Monday of December next, pursuant to an Order of Appeal granted, on the eighth day of June, 1849, by the District Court of the United States in and for the Eastern District of Louisiana, in a certain cause in Chancery, (under the Acts approved May 26th, 1824, and June 17th, 1844,) entitled, (No. 143) *Heirs of Saml. Elkins et al:* vs. *The United States*, wherein the said United States of America are now Appellants, and you are Appellees, to show cause, if any there be, why the Judgment rendered against the Appellants, as in the said Order of Appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness hereto my hand, and the Seal of the said Court, at the City of New Orleans, this twenty fourth day of September, A. D. 1849.

[SEAL.] THEO. H. McCALEB,
Judge of U. S. District Court Eastern District of Louisiana.

I. T. PRESTON,
Atty. for curator.

Attest: ROBR. M. LUSHER,
Dy. Clerk.